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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,980	09/24/2003	Tibor Farkas	038190/256280	5790

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EXAMINER
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RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

MAIL DATE	DELIVERY MODE
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05/03/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/669,980

Applicant(s)

FARKAS ET AL.

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 8, 2007, has been entered.

2. The Examiner has carefully considered Applicant's amendment and accompanying remarks filed February 8, 2007. In view of Applicant's response, the Examiner has withdrawn the rejection in view of Palmer (US 6,187,411). However, additional prior art has been found which renders the invention as currently claimed unpatentable for reasons herein below.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is dependent upon cancelled claim 3. The claim has been treated as if it were dependent upon claim 1. Correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4-9, and 14-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Dennis et al. (US 2004/0161989) in view of Steeghs et al. (US 2003/0037361). Dennis et al. disclose an anti-projectile barrier fabric which takes the form of a plural-layer assembly of two outer cloth layer and a pair of foam layers and a central, inner strand layer (abstract). The fabric can be used to make other bullet-protecting structures such as vests, blankets, and tents [0010]. The outer cloth layers may be made of nylon cloth [0012], the foam-like layers are preferably formed of cross-linked polyethylene [0013], and the central strand layer is made of woven Kevlar [0014]. The foam layers are surface bonded to the cloth layers' inner surfaces (claim 1). It is the Examiner's position that the foam layer which is surface bonded to the cloth layers would partially infiltrate the fabric layer, to a degree. With regard to Applicant's disclosure of a hydrazine fuel tank, fuel system of a vehicle, and hydraulic system of a vehicle, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Palmer discloses the claimed invention except for the teaching that the first layer comprises a honeycomb cross-section and that is comprised of aramid of polyethylene, or PBO fibers.

Steeghs et al. (US 2003/0037361) discloses a ballistic vest containing a stack of fabrics wherein the outer fabric is a loose fabric which can be a honeycomb weave [0011 and claim 1]. The fabrics can be made of strong fibers such as aramid, PBO, and UHMW polyethylene [0022]. It would have been obvious to one having ordinary skill in the art to use Fisher's teaching of an outer honeycomb weave comprising aramid, polyethylene, or PBO fibers as one of the outer cloths of Dennis et al., motivated by the desire to create a lightweight impact resistant composite that has sufficient resistance to deformation in small areas while maintaining flexibility and isolating and dissipating shock.

Regarding claims 7, 9, 14, and 15, Dennis et al. and Steeghs et al. disclose the claimed invention except for the teaching that the first and second fabric layers are capable of absorbing up to about 30,000 ft-lbs of kinetic energy without rupture and that the insulation is resistant to penetration by a fragment having a kinetic energy greater than about 1700 ft-lbs or greater than about 3500 ft-lbs.

Although Dennis et al. and Steeghs et al. do not explicitly teach the claimed kinetic energy absorbance and penetration resistance, it is reasonable to presume that these properties are inherent to the panel of Dennis et al. and Steeghs et al. Support for said presumption is found in the use of like materials (i.e. outer woven Kevlar layers with honeycomb structure and a central polymeric foam core). The burden is upon Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. In addition, the presently claimed property of first and second fabric layers that are capable of absorbing up to about 30,000 ft-lbs of kinetic energy without rupture and a penetration resistance of a fragment having a kinetic energy greater than about 1700 ft-lbs or greater than

about 3500 ft-lbs, would obviously have been present once the Dennis et al. and Steeghs et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977).

4. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dennis et al. (US 2004/0161989) and Steeghs et al. (US 2003/0037361), as applied to claim 1 above, and further in view of Brink et al. (US 3,381,420). Dennis et al. and Steeghs et al. disclose the claimed invention except for the teaching that the material further comprises a glass fabric layer and a radiation control film layer.

Brink et al. (US 3,381,420) discloses an insulation material used to insulate tanks, pipes, and automobiles (col 3, ln 72-75 and col 4, ln 1-2). The structural material contains a flexible film that is used for facing the core, which can be a metallized polyester. The preferred metallizing material is aluminum (col 3, ln 24-32). The structural material further contains one or more layers of woven fiberglass cloth to increased the impact resistance of the structural material (col 2, ln 25-30). It would have been obvious to have used Brink's metallized polyester film layer and woven fiberglass cloth in the panel of Dennis et al. and Steeghs et al., motivated by the desire to create a panel having increased resistance to impact and damage and having increased strength.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UCR

*UCR*

*Ula Ruddock*